

1 BEFORE THE ARIZONA CORPORATION COMMISSION

2 WILLIAM A. MUNDELL  
CHAIRMAN

3 JIM IRVIN  
COMMISSIONER

4 MARC SPITZER  
COMMISSIONER

RECEIVED

2002 JUN 12 P 3:22

JUN 12 2002

AZ CORP COMMISSION  
DOCUMENT CONTROL

LEGAL DIV.  
ARIZ. CORPORATION COMMISSION

6 IN THE MATTER OF QWEST CORPORATIONS  
7 COMPLIANCE WITH SECTION 252(e) OF THE  
TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. RT-00000F-02-0271

8 PROCEDURAL ORDER

9  
10 **BY THE COMMISSION:**

11 On April 8, 2002, the Staff of the Arizona Corporation Commission ("Commission") opened  
12 the above-captioned docket for the purpose of conducting an inquiry into whether Qwest Corporation  
13 ("Qwest") has complied with Section 252(e) of the Telecommunications Act of 1996. In this docket  
14 the Commission will review whether Qwest should have filed certain agreements for Commission  
15 approval, and if so, whether, and what, remedial action is appropriate.

16 Pursuant to Procedural Orders dated April 18, 2002, May 7, 2002, and May 20, 2002, Qwest  
17 submitted copies of the subject agreements on May 10, 2002. The Residential Utility Consumers  
18 Office ("RUCO"), AT&T Communications of the Mountain States, Inc and TCG Phoenix  
19 (collectively "AT&T") and Time Warner Telecom of Arizona, LLC (TWTA") filed Comments on  
20 Qwest's submission on May 24, 2002. Qwest filed Responsive Comments on May 31, 2002. Staff  
21 filed its Staff Report on June 7, 2002.

22 The Staff Report contains Staff's analysis of the applicable statutes, a description of the  
23 parties' positions and Staff's recommendations. Staff concludes that Section 252 should be read  
24 more broadly than Qwest had been reading it, and that consequently, 25 of the agreements that Qwest  
25 submitted should have been submitted to the Commission for approval. Staff recommends that  
26 Qwest be assessed fines totaling \$104,000. Staff states that it believes Qwest acted based upon a  
27 good faith interpretation of the underlying statutes and that because no material facts are in dispute,  
28 that an evidentiary hearing is not necessary. Staff recommends that the Commission impose the fines

1 and allow Qwest, or other party, an opportunity to request a hearing on the level of the fines, if they  
2 so desire. Staff states the Commission may also want to consider the imposition of other non-  
3 financial remedies.

4 In its Comments, RUCO requests that there be an opportunity for additional discovery and  
5 that a hearing be scheduled.

6 No party has had opportunity to comment on the Staff Report. Therefore, a Procedural  
7 Conference/Oral Argument will be held to discuss the following issues:

- 8 1. Are there material issues of fact?
- 9 2. Is additional discovery required?
- 10 3. What is the appropriate procedure going forward?
- 11 4. Should there be a hearing, and if so what should be the scope?

12  
13 IT IS THEREFORE ORDERED that a Procedural Conference for the purpose of taking  
14 comments on the recommendations contained in the Staff Report and to discuss the questions set  
15 forth above, as well as any other issues related to this matter the parties wish to bring to the attention  
16 of the Commission, shall commence on June 19, 2002, at 10:00 a.m. at the Commission's offices,  
17 1200 W. Washington Street, Phoenix, Arizona.<sup>1</sup>

18 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
19 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

20 DATED this 19<sup>th</sup> day of June, 2002.

21  
22  
23   
24 JANE L. RODDA  
ADMINISTRATIVE LAW JUDGE

25  
26  
27  
28 <sup>1</sup> The call in number for those parties wishing to appear telephonically is (602) 542-9004.

1 Copies of the foregoing mailed/delivered  
 2 this 22<sup>nd</sup> day of June, 2002, to

3 QWEST Corporation  
 1801 California Street, #5100  
 4 Denver, Colorado 80202

5 Maureen Arnold  
 U S WEST Communications, Inc.  
 3033 N. Third Street, Room 1010  
 6 Phoenix, Arizona 85012

7 Michael M. Grant  
 GALLAGHER AND KENNEDY  
 2575 East Camelback Road  
 8 Phoenix, Arizona 85016-9225

9 Timothy Berg  
 FENNEMORE CRAIG  
 3003 N. Central Ave., Suite 2600  
 10 Phoenix, Arizona 85016

11 Mark Dioguardi  
 TIFFANY AND BOSCO PA  
 500 Dial Tower  
 12 1850 N. Central Avenue  
 Phoenix, Arizona 85004

13 Nigel Bates  
 ELECTRIC LIGHTWAVE, INC.  
 4400 NE 77<sup>th</sup> Avenue  
 14 Vancouver, Washington 98662

15 Thomas L. Mumaw  
 Jeffrey W. Crockett  
 SNELL & WILMER  
 16 One Arizona Center  
 Phoenix, Arizona 85004-0001

17 Darren S. Weingard  
 Stephen H. Kukta  
 SPRINT COMMUNICATIONS CO L.P.  
 18 1850 Gateway Drive, 7<sup>th</sup> Floor  
 San Mateo, California 94404-2467

19 Thomas H. Campbell  
 LEWIS & ROCA  
 20 40 N. Central Avenue  
 Phoenix, Arizona 85007

21 Andrew O. Isar  
 TRI  
 22 4312 92<sup>nd</sup> Avenue, N.W.  
 Gig Harbor, Washington 98335

23 Bradley Carroll  
 Cox Arizona Telcom, L.L.C.  
 24 20401 N. 29<sup>th</sup> Avenue, Suite 100  
 Phoenix, Arizona 85027

25 Richard M. Rindler  
 Morton J. Posner  
 26 SWIDER & BERLIN  
 3000 K Street, N.W. Suite 300  
 27 Washington, DC 20007

Michael W. Patten  
 ROSHKA HEYMAN & DEWULF  
 400 E. Van Buren, Suite 800  
 Phoenix, Arizona 85004

Charles Kallenbach  
 AMERICAN COMMUNICATIONS SERVICES INC  
 131 National Business Parkway  
 Annapolis Junction, Maryland 20701

Karen L. Clauson  
 Thomas F. Dixon  
 MCI TELECOMMUNICATIONS CORP  
 707 17th Street, #3900  
 Denver, Colorado 80202

Richard S. Wolters  
 AT&T & TCG  
 1875 Lawrence Street, Room 1575  
 Denver, Colorado 80202

Joyce Hundley  
 UNITED STATES DEPARTMENT OF JUSTICE  
 Antitrust Division  
 1401 H Street NW, Suite 8000  
 Washington, DC 20530

Joan Burke  
 OSBORN MALEDON  
 2929 N. Central Avenue, 21st Floor  
 P.O. Box 36379  
 Phoenix, Arizona 85067-6379

Scott S. Wakefield, Chief Counsel  
 RUCO  
 2828 N. Central Avenue, Suite 1200  
 Phoenix, Arizona 85004

Gregory Hoffman  
 795 Folsom Street, Room 2159  
 San Francisco, CA 94107-1243

Daniel Waggoner  
 DAVIS WRIGHT TREMAINE  
 2600 Century Square  
 1501 Fourth Avenue  
 Seattle, WA 98101-1688

Douglas Hsiao  
 Jim Scheltema  
 Blumenfeld & Cohen  
 1625 Massachusetts Ave. N.W., Suite 300  
 Washington, DC 20036

Raymond S. Heyman  
 Randall H. Warner  
 ROSHKA HEYMAN & DeWULF  
 400 E. Van Buren, Suite 800  
 Phoenix, Arizona 85004

Diane Bacon, Legislative Director  
 COMMUNICATIONS WORKERS OF AMERICA  
 5818 North 7<sup>th</sup> Street, Suite 206  
 Phoenix, Arizona 85014-5811

1 Mark N. Rogers  
 Excell Agent Services, L.L.C.  
 2 2175 W. 14<sup>th</sup> Street  
 Tempe, Arizona 85281

3 Robert S. Tanner  
 DAVIS WRIGHT TREMAINE LLP  
 4 17203 n. 42<sup>ND</sup> Street  
 Phoenix, Arizona 85032

5 Mark P. Trinchero  
 DAVIS WRIGHT TREMAINE LLP  
 6 1300 S.W. Fifth Avenue, Suite 2300  
 Portland, Oregon 97201

7 Jon Loehman  
 Managing Director-Regulatory  
 SBC Telecom, Inc.  
 8 5800 Northwest Parkway  
 Suite 135, Room 1.S.40  
 San Antonio, Texas 78249

9 Lyndall Nipps  
 Director, Regulatory  
 10 Allegiance Telecom, Inc.  
 845 Camino Sure  
 11 Palm Springs, California 92262

12 M. Andrew Andrade  
 5261 S. Quebec Street, Suite 150  
 Greenwood Village, CO 80111  
 13 Attorney for TESS Communications, Inc.

14 Todd C. Wiley  
 GALLAGHER & KENNEDY  
 15 2575 E. Camelback Road  
 Phoenix, Arizona 85016-9225

16 Megan Doberneck  
 Senior Counsel  
 17 Covad Communications Company  
 7901 Lowry Boulevard  
 18 Denver, CO 80230

19 Al Sterman  
 ARIZONA CONSUMERS COUNCIL  
 2849 E 8th Street  
 20 Tucson Arizona 85716

21 Brian Thomas  
 TIME WARNER TELECOM, INC.  
 520 S.W. 6<sup>th</sup> Avenue, Suite 300  
 22 Portland, Oregon 97204


23 Jon Poston  
 ACTS  
 6733 E. Dale Lane  
 24 Cave Creek, Arizona 85331-6561

25 Christopher Kempley, Chief Counsel  
 Legal Division  
 ARIZONA CORPORATION COMMISSION  
 1200 West Washington Street  
 26 Phoenix, Arizona 85007

27 Ernest G. Johnson, Director  
 Utilities Division  
 ARIZONA CORPORATION COMMISSION  
 1200 West Washington Street  
 28 Phoenix, Arizona 85007

ARIZONA REPORTING SERVICE, INC  
 2627 N. Third Street, Suite Three  
 Phoenix, Arizona 85004-1103

By:

  
 Molly Johnson  
 Secretary to Jane Rodda